

**Remarks/Arguments:**

Claims 10-17 were pending in the application at the time of the Office Action. Applicant notes that he cancelled claims 1-9 by preliminary amendment at the time he filed the application. Previously withdrawn claims 16-17 are canceled herewith, and Applicant reserves the right to file these in a Divisional application. Claim 11 is canceled herewith and its limitations incorporated into claim 10. The claims are also amended for clarity and to provide antecedent basis. Claims 12 and 15 are recast in independent format. No new matter has been added.

**35 USC § 101**

Claims 1-9 are rejected as drawn to non-statutory subject matter. Since claims 1-9 have been canceled, the rejection is moot. Also, Applicant points out that these same claims were allowed and issued in U.S. Pat. No. 6,731,405. Thus, Applicant submits that the subject matter of canceled claims 1-9 is indeed patentable under 35 USC § 101.

Claims 1-9 are rejected as claiming the same subject matter as claims 1-9 of U.S. Pat. No. 6,731,405. The rejection is moot because claims 1-9 have been canceled.

**35 USC § 102**

Claims 10 and 13-14 are rejected under 35 USC § 102(b) as anticipated by U.S. Pat. No. 5,357,344 ("Kasamatsu"). Kasamatsu teaches methods of making gravure printing plates. (Col. 2, lines 25-27). As the Examiner notes, Kasamatsu does not disclose a flexographic printing plate as recited in amended claim 10 and its dependents. Kasamatsu cannot anticipate the claims because he does not teach this element, and thus, the rejection has been overcome.

**35 USC § 103**

Claim 11 (now cancelled and incorporated into claim 10) recites a flexographic printing plate. Claim 11 is rejected under 35 USC § 103(a) as unpatentable over Kasamatsu as applied to claim 10 above, and further in view of "well known prior art. (Official Notice)." The Office Action does not identify specifically what is asserted to be well known, but Applicant believes that the Examiner is referring to his later mention of "well known advantages offered by flexographic printing plates as discussed by applicant in the description of the related prior art." Applicant recognizes that the Background section of the application describes various characteristics of flexographic printing, but the rejection does not explain why the person of ordinary skill would have attempted to improve Kasamatsu's method of making GRAVURE printing plates by instead making FLEXOGRAPHIC plates as claimed.

As is well known in the art, flexographic printing is not an improved form of gravure printing, but rather an alternative form. Each method is suitable to a certain type of printing job. This of course goes without saying, since both methods have been used for years, and continue to be used, each in its own application niche. Gravure and flexography are not interchangeable; they are intended for different purposes.

Therefore, modifying Kasamatsu's invention by converting it from gravure to flexography would render it unsatisfactory for its intended purpose, which is to make plates for gravure printing. As noted in the MPEP at 2143.01 V, "If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." In *re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984) Thus, the Office Action does not provide a *prima facie* case of obviousness.

Further, the Examiner will appreciate that the principle of operation of a gravure printing roller is quite different from that of a flexographic printing plate. Gravure operates by depositing ink from within cells etched into the surface of a metal roller, while flexographic printing uses a polymeric printing plate with ink residing on the surface of raised features, much like a rubber stamp. Thus, their principles of operation are different. But, "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." In *re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) For this reason as well, the Office Action does not provide a *prima facie* case of obviousness.

#### Allowable Subject Matter

Applicant thanks the Examiner for indicating that claims 12 and 15 contain allowable subject matter. These claims are cast herewith in independent format, as suggested by the Examiner, and Applicant submits that they are therefore in condition for allowance.

Appln. No.: 10/776,821  
Amendment Dated July 16, 2008  
Reply to Office Action of April 17, 2008

ESKO-020US3

Applicant submits that all of the claims are allowable, and requests reconsideration and notice to that effect. Applicant invites the Examiner to contact his undersigned representative, Frank Tise, if that appears likely to expedite examination.

Respectfully submitted,



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RAD/FPT/gdb

Dated: July 16, 2008

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